

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 13, 2011

In the Matter of K. A. UNDERWOOD III, Minor.

No. 304410
Wayne Circuit Court
Family Division
LC No. 09-488524

Before: O'CONNELL, P.J., and MURRAY and DONOFRIO, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to the minor child. We affirm.

In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and its best-interest determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009).

The record supports the trial court's findings with regard to the statutory grounds in MCL 712A.19b(c)(i) (conditions leading to adjudication continue to exist) and (g) (failure to provide proper care or custody). The conditions that led to adjudication were respondent's previous incarceration, his criminal history including domestic violence, and his act of slapping the then three-year-old child's face hard enough to leave a mark. At the time of the termination hearing, respondent was again incarcerated and unable to care for his son. Moreover, respondent had not visited the child in the months prior to his incarceration. Respondent claimed to have transportation problems that prevented him from visiting; however, respondent also failed to exercise telephone visitation with the child. Therefore, the conditions that led to adjudication continued to exist.

The trial court also did not clearly err in finding that the conditions of adjudication could not be rectified or that respondent would not be able to provide proper care and custody within a reasonable time considering the child's age. After 18 months, respondent had made no effective progress toward being able to provide proper care and custody for the child. Respondent had not complied with the requirement to submit regular drug screens, and the drug screen he took in court in November 2010 was positive for marijuana and opiates. Respondent did not have legal income or a stable home for the child. Respondent had not actively participated in his treatment

plan since December 2010. Therefore, the trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i) and (g) were established by clear and convincing evidence.

Given that there was no clear error in the trial court's determination regarding MCL 712A.19b(3)(c)(i) and (g), we need not address whether the court erred regarding subsection (j). "Only one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights, even if the court erred in finding sufficient evidence under other statutory grounds." *In re Ellis*, ___ Mich App ___; ___ NW2d ___ (August 25, 2011, slip op p 2). Accordingly, we turn to respondent's contention that the trial court clearly erred in finding that termination of his parental rights was in the child's best interests under MCL 712A.19b(5). We find no clear error. Considering the diminished bond between respondent and his son due to respondent's failure to visit for several months, the child's young age and need for stability and permanency, and respondent's inability to provide a stable home and income, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ Christopher M. Murray
/s/ Pat M. Donofrio